

REMARKS

Claims 41-45 are of record in this application. New claims 41-45 have been added and claims 1-40 have been canceled [claims 1-37 were also canceled in the originally filed "REQUEST FOR FILING A PATENT APPLICATION UNDER 37 CFR 1.53(b)", form PTO/SB/13(11-96)]. No claims have been amended.

Support for new claims 41-45 is inherent in the disclosure. All of the claims are limited to Applicants' novel allatostatin derivative which was referred to in the specification as AST(b)φ2. This compound is shown in Figure 2(c) and disclosed at page 4, lines 18-20, page 20, lines 19-31, and page 26, line 27 to page 27, line 4. Claims 42-45, drawn to the use of the AST(b)φ2 compound to control insects, and specifically to inhibit juvenile hormone production of insects, including cockroaches, are supported by the disclosure at page 14, lines 5-24, page 15, line 4 to page 16, line 9, page 26, line 27 to page 27, line 8, and page 30, Table 2.

Response to Restriction and Election Requirements

The Examiner has required restriction between six groups of claims:

1. claims 1-15 drawn to a first group of compounds,
2. claims 20-33 drawn to a second group of compounds,

3. claims 38 and 39 drawn to a third group of compounds,
4. claims 16-19 drawn to a method of using the compounds of group 1,
5. claims 34-37 drawn to a method of using the compounds of group 2, and
6. claim 40 drawn to a method of using the compounds of group 3,

The Examiner has also required election of a single species within the elected group.

In response, Applicants request that all of the previously presented claims be canceled and replaced with the above-mentioned claims 41-45. As claims 41-45 are drawn to a single disclosed compound or species, Applicants believe that the election of species requirement is now moot.

Applicants note that claim 41 is drawn to a single compound, while claims 42-45 are drawn to a method of use of that compound for insect control. In this manner, the instant claims are analogous to those originally presented, wherein each compound claim group had a corresponding group of claims drawn to the use of those compounds. If the Examiner is of the belief that claim 41 and claims 42-45 should be the subject of a similar restriction requirement, Applicants hereby elect the group comprising claim 41. However, Applicants respectfully request that the claims not be restricted, and that all claims receive an action on the merits.

In requiring a restriction between the originally presented compound claims and the claims drawn to their use, the Examiner had taken the position that the compounds as claimed could have been used in peptide synthesis, and that the process could have been used with a variety of insecticides. Applicants respectfully submit that this same reasoning is not applicable to the instant claims.

Looking first at compound claim 41, this claim is limited to a single analog of the insect allatostatin neuropeptide which incorporates each of two distinct modifications therein. The first modification is to the N terminus of an allatostatin, and allows the compound to be topically applied to the target insects (i.e., it penetrates the insect's cuticle and therefore does not need to be ingested for efficacy). As described in the specification at page 5, line 13 to page 9, line 11, and page 26, lines 26-34, these analogs may be prepared by conjugating selected hydrophobic R moieties (in this case, Hca or a hydrocinnamic acid group) to a bioactive portion of the allatostatin neuropeptide. The second modification is to substitute a sterically hindered amino acid (in this case Cpa or cyclopropyl alanine) for the second amino acid of the C-terminal allatostatin pentapeptide, as described at page 9, line 12 to

page 12, line 10. The combination of both of the above-mentioned modifications together into the same allatostatin analog is described at page 12, lines 11-26, and page 26, lines 26-34. The resultant compound AST(b)Φ2, is shown in Figure 2(c).

Applicants respectfully submit that the claimed compound could not be used in a different process such as peptide synthesis. Because the compound incorporates non-naturally occurring, modified moieties therein, it would not be suitable for use in the preparation of any known peptides.

Moreover, Applicants further submit that the process could not be practiced with other insecticides. MPEP §806.05(h) states that a restriction is proper if "the process for using the product as claimed can be practiced with another materially different product." Here, claims 42-45 are specifically limited to the compound of claim 41. Thus, the process of claims 42-45 could not be practiced with another compound.

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In view of the foregoing, Applicants respectfully request that the requirement for restriction be withdrawn, and that all of claims 41-45 receive action on the merits.

Respectfully submitted,



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